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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,661	05/02/2008	Jon Kemppainen	6543-II US	5723

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LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

ROSENBAUM, MARK

ART UNIT	PAPER NUMBER
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3725

NOTIFICATION DATE	DELIVERY MODE
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03/15/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LifetechDocket@system.foundationip.com
paralegals@system.foundationip.com

Office Action Summary	Application No. 10/576,661	Applicant(s) KEMPPAINEN ET AL.	
	Examiner Mark Rosenbaum	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31,32 and 47-55 is/are pending in the application.
- 4a) Of the above claim(s) 55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31,32,48,49,52,53 is/are rejected.
- 7) ☒ Claim(s) 47,50,51 and 54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/3/11</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

Claims 47,50,51,54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Election/Restrictions

Claim 55 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/29/10

Claim Rejections - 35 USC § 102

Claims 31,48 are rejected under 35 U.S.C. 102(b) as being anticipated by either Holzapfel or Hartman. Both patents show grinding media consisting of coneballs. Applicant's remarks concerning this rejection have been considered but are not persuasive. Applicant states that this rejection is not proper because no pointed ends are shown. This is true but not relevant since the coneballs of the claims do not require pointed ends. Applicant also argues that coneballs are not shown in these references. As broadly claimed, the references do show the claimed subject matter. For example, a truncated cone is still a cone.

Claim Rejections - 35 USC § 103

Claims 32,52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomes et al in view of either Holzapfel or Hartman. Tomes et al discloses the basic process and apparatus for treating biological material in a media mill. The media is

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spherical shaped which results in inefficient milling. Each of the secondary references shows a media mill using media of coneball shape to crush material. In order to efficiently crush material, it would have been obvious for one of ordinary skill in the art to modify Tomes et al by using coneball shaped media, taught to be desirable by either Holzapfel or Hartman. The remarks set forth in the paragraph immediately above are repeated here.

Claims 31,49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lugmair et al or Davidsen in view of Trumpler. Both Lugmair et al and Davidsen show the use of grinding media consisting of pins. The pins are not pointed which may cause inefficient grinding and pin rolling problem. Trumpler solves these problems by showing similar apparatus including the use of media with pointed ends. In order to ensure proper grinding, it would have been obvious for one of ordinary skill in the art to modify either Lugmair or Davidsen by using pointed ends on the media, taught to be desirable by Trumpler. Applicant's argument is directed towards the use of non-pointed ends in Lugmair et al and Davidsen. This is not persuasive because Trumpler clearly states that pointed ends may be used in grinding media.

Claims 32,53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomes et al in view of either Lugmair et al or Davidsen and Trumpler. Tomes et al discloses the basic process and apparatus for treating biological material in a media mill. The media is spherical shaped which results in inefficient milling. Lugmair et al, Davidsen and Trumpler show a media mill using media of pin shape with pointed ends to crush material. In order to efficiently crush material, it would have been obvious for

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one of ordinary skill in the art to modify Tomes et al by using pin shaped media with pointed ends, taught to be desirable by either Lugmair et al or Davidsen in combination with Trumpler. Applicant's argument is directed towards the use of non-pointed ends in Lugmair et al and Davidsen. This is not persuasive because Trumpler clearly states that pointed ends may be used in grinding media.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Rosenbaum
Primary Examiner
Art Unit 3725

/Mark Rosenbaum/
Primary Examiner, Art Unit 3725

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